Office - Supreme Court, U. S.
FILED
MAY 2, 1914
CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

October Term, 1913.

No. 888.

GEORGE E. SULLIVAN, *Petitioner*,

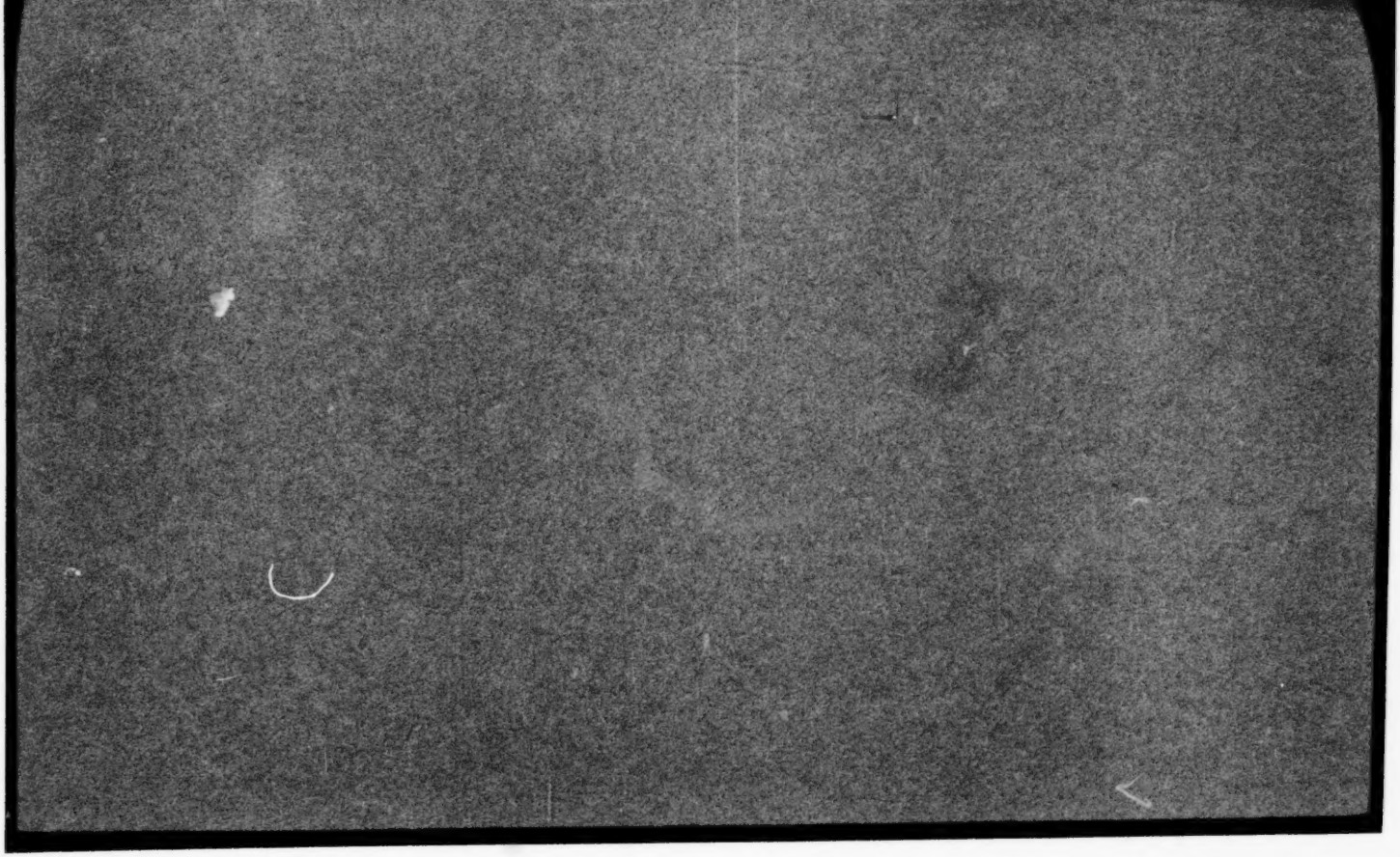
v.

EUGENE MEYER, *Respondent*.

BRIEF OF RESPONDENT EUGENE MEYER IN OPPOSITION TO PETITION FOR CERTIORARI.

SPENCER GORDON,
Attorney for Eugene Meyer, Respondent.

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.



IN THE

Supreme Court of the United States

October Term, 1943.

No. 888.

GEORGE E. SULLIVAN, *Petitioner,*

v.

EUGENE MEYER, *Respondent.*

BRIEF OF RESPONDENT EUGENE MEYER IN OPPOSITION TO PETITION FOR CERTIORARI.

STATEMENT.

In this case the United States Court of Appeals for the District of Columbia affirmed a judgment entered by the District Court based on the verdict of a jury in favor of the defendant below.

The plaintiff George E. Sullivan (the present petitioner) had brought suit for libel on the ground that the defendant Eugene Meyer (the present respondent) had published in *The Washington Post* that Attorney George E. Sullivan was the "author of a defeatist, anti-Jewish book" (R. 3, 5).

The defendant filed pleas of fair comment and truth (R. 9).

The book which was entitled "*The Road to Victory*" was read to the jury by the plaintiff. It was in fact defeatist and anti-Jewish as excerpts will demonstrate.

As to the Jews Mr. Sullivan said:

> "* * * Most people have always regarded Judaism as a religion—the original Hebrew religion dedicated to the worship of God and to obedience to God's Commandments. There has been no thought that Judaism is, or might be, a criminal substitute for religion, as it surely must be if it is consonant with Bolshevism." (R. 79)
>
> "* * * Civilization cannot tolerate organized criminality or Brigandry under the name of Bolshevism, Judaism, or any other name or guise." (R. 79)
>
> " * * * **'The study of Judaism is that of the Talmud, as the study of the Talmud is that of Judaism.** To wish to understand one without entering upon the explanation of the other is chimerical. They are two inseparable things, or better, THEY ARE ONE AND THE SAME.' "* (R. 80)
>
> "* * * In this recent 8-volume set, deposited in the Library of Congress, will be found real and incontrovertible evidence concerning the so-called 'social system' or 'world of its own'—in reality a CRIMINAL SYSTEM FOR WORLD CONQUEST—outlined in the Talmud." (R. 82)
>
> "Consequently, it is not surprising to find shameless degradation of womanhood wherever the Talmudic influence has penetrated." (R. 89)
>
> "Those who want civilization rescued from the Talmudic system should not be deceived by subterfuges. They should be particularly alert against deception through the tricky mis-use of the term 'Orthodox' in connection with Judaism to make it appear that Orthodox Judaism is anti-Talmudic. 'The Talmud is the

---

* Capitals and black face type here in these quotations are as in the book.

accepted authority for Orthodox Jews everywhere.' (Columbia Encyclopedia, 1938, under title 'Talmud'.) The recognized Jewish authority, Darmesteter, has made very plain that Judaism and the Talmud are 'ONE AND THE SAME' * * *" (R. 99-100)

"The alarming extent to which Talmudists have been assuming official positions in our Republic should not be overlooked, particularly as the criminal system of Talmudism renders them patently ineligible to hold office in any civilized nation." (R. 243)

It may fairly be said that the foregoing statements as to the Jews, published during the war, are in themselves "defeatist", as well as "anti-Jewish", for the publication of any book which tends to divide Americans, and which stirs up racial hatred towards a minority, plays directly into the hands of an enemy whose policy is to divide and conquer. But the defeatism expressed by the author goes far beyond his anti-Jewish expressions.

In the first chapter, which was written after the Japs had attacked Pearl Harbor, and after Germany and Italy had declared war on the United States (R. 16), Mr. Sullivan said:

"Let us have no more talk about a temporary total eclipse of our Republic through so-called 'total defense'. Such a proposition borders on treason!" (R. 61-62)

"Of all the deceptive misnomers, so-called TOTAL DEFENSE is the worst, because it really means NATIONAL SUICIDE." (R. 62)

"The flower of American manhood stands always ready to make the supreme sacrifice for the defense of our Republic. Infused with the spirit of America, they will always be invincible. Many of them died in vain in 1917 and 1918. They thought they were giving their lives 'TO MAKE THE WORLD SAFE FOR DEMOCRACY.' Instead, the world was being prepared for a Communist takeover!" (R. 63)

In subsequent chapters, which were written before Pearl Harbor but which were published in 1942 with the new first chapter, Mr. Sullivan stated:

> "Clinton Roosevelt, Theodore Roosevelt and Franklin D. Roosevelt have all sought to change the course of our great Ship of State. Is it only a coincidence that the changed course advocated by each has not been out of harmony with the British-Talmudic plans?" (R. 173)

> "* * * No nation can preserve its independence if it merges its destiny with any other nation or group of nations." (R. 217)

> "* * * If the British people were really free, it is inconceivable that they would tolerate Winston Churchill at the British helm. His own shamelessly expressed coldbloodedness matches that of the Talmudic program itself, * * *" (R. 223)

> "* * * Roosevelt made very plain that he and Churchill were in perfect harmony about this program. Before the program gets under way, it might be well for American men and boys to take one last look at an American fireside, for they may never see one again." (R. 233)

> "* * * But the enormity and character of the Roosevelt-Churchill proposals are truly shocking. Whatever their purposes, could any results be reasonably possible except the 'practical bankruptcy' comprehended in the Lenin-Stalin strategy? Is practical common sense, and a determination to save our Republic as one corner at least of Civilization, properly denominated 'defeatism'?* If we are to prepare for the surrender or destruction of our Republic, and of Constitutional American Liberty, why use a backdoor method involving mass slaughter of the flower of American manhood in various parts of the world on an **internationalist** crusade of such gigantic proportions as Roosevelt and Churchill have proposed? If we must lose everything for which our American people have labored,—their

---

* Here Mr. Sullivan recognizes that the policy he advocates may be called defeatism.

life savings, their homes, their businesses, their automobiles, etc.,—why not let us have the satisfaction of losing them in a valiant defense of the American Republic, instead of having them dissipated in a strange internationalist crusade to liberate subjugated nations, which cannot conceivably result in any victory **except for Talmudism?"** (R. 233-234).

"Neither in the winning of the war, nor in the restoration of the Republic, can we permit wisdom, integrity or truth to be supplanted by rashness, subterfuge, or deception. Britain's unkept promises of 'all aid' to Poland, Finland and Greece are not more to be regretted than the recent Roosevelt pledge to 'redeem' the Filipinos by the use of—

" 'The **entire** resources in men and material of the United States.' Much of the resources in men and material of the United States are urgently needed today for the defense of Continental United States, if our Republic is to survive. If our 'entire resources' are to be used to 'redeem' an Asiatic possession which an earlier Roosevelt tricked us into acquiring, how much of those resources will remain to defend and maintain Continental United States, so absolutely essential to the survival of our Republic? If lives of American manhood are to be sacrificed to an extent that may prevent further defense of our Republic against enemies within and without, those sacrificed should at least be accorded the glory of dying in a real defense of the Republic within, or in the vicinity of, the Republic itself, rather than in a far-flung Asiatic possession which never should have been acquired in the first place. Enemies of our Republic may want our men and resources sunk in the Pacific Ocean on such a gigantic scale that our take-over will be easy, but those who have taken oaths to defend our Republic should not, wittingly or unwittingly, make such catastrophe possible." (R. 236)

The book is defeatist and anti-Jewish from one end to the other, as may readily be ascertained by an inspection of the copies which have been filed with the record.

At the conclusion of the plaintiff's case, and after the book had been read to the jury, counsel for the defendant

moved for an instructed verdict on the ground that the article constituted fair comment on a matter of public interest and that no malice had been shown. This motion was denied. (R. 20)

The defendant thereupon put in his case, at the conclusion of which the Court denied instructions submitted by Mr. Sullivan which would have been tantamount to a directed verdict for the plaintiff (R. 32), denied an instruction to direct a verdict for the defendant (R. 33), denied instructions submitted by the defendant on the plea of fair comment (R. 33), and submitted the case to the jury only on the issue of truth (R. 30, 31). The jury found for the defendant, thus necessarily finding that the book was in fact a "defeatist, anti-Jewish book."

A motion for new trial was denied (R. 52).

Mr. Sullivan appealed, raising various points which had to do with the conduct of the trial (R. 52).

The Court of Appeals affirmed the judgment below, stating:

> "The court correctly instructed the jury that 'the truth is an absolute defense in an action for libel, and if they find that ' 'The Road to Victory' ' was in fact a defeatist, anti-Jewish book, as those words would be understood by ordinary readers of The Washington Post, their verdict must be for the defendant.' The contents of the book, which are in the record, sufficiently support the jury's verdict. Since that is the case, the Post's opinion that the book was defeatist as well as anti-Jewish was at least a reasonable opinion; and since there was no evidence that the words were used in bad faith or with a bad motive, the court might very well have directed a verdict for appellee on the issue of fair comment which we think it incorrectly ruled out of the case. *Potts* v. *Dies,* 77 U. S. App. D. C. 92, 132 F. 2d. 734." (R. 253.)

ARGUMENT.

The case involves no federal question, and has no general importance.

It was correctly decided, for *"The Road to Victory"* was clearly a defeatist, anti-Jewish book.

Respectfully submitted,

SPENCER GORDON,
Attorney for Eugene Meyer,
Respondent.